

REMARKS

The Office Action of November 24, 2009 has been received and considered. Claims 1-36 are pending in this application. Claims 1 and 21 have been amended.

Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

d. Each of the Examiner's rejections is discussed below.

Section 112

Claims 1-36 have been objected to on the ground that the term "tight" renders the claims indefinite. Independent claims 1 and 21 have been amended to remove the term "tight," and claims 1-36 are now believed to be in proper form.

Section 102

Claims 1, 2, 7-11, 15, 19, 21, 22, 26-29, and 33 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,365,351 to Doerschuk et al ("Doerschuk"). This rejection is respectfully traversed.

Doerschuk fails to disclose or make obvious an article of swimwear with a swimsuit body **configured to be stretched over a swimmer's body so as to provide a conforming fit on a swimmer's body**, as required by independent claims 1 and 21.

Doerschuk describes its diver's suit 10 as a "somewhat loosely fitting body covering" at col. 2, lines 29-32. Not only does Doerschuk not disclose the required swimsuit body **configured to be stretched over a swimmer's body so as to provide a conforming fit on a**

swimmer's body, Doerschuk actually teaches away from a swimsuit body stretched over a swimmer's body with a conforming fit.

The Office Action asserts that at least a portion of the swimsuit body of Doerschuk is configured to provide a conforming fit on a swimmer's body. However, Applicant notes that Doerschuk is not stretched over a swimmer's body to provide a conforming fit.

Accordingly, the rejection is improper and should be withdrawn.

Section 103

Claims 1—36 have been rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,088,032 to Newman ("Newman") in view of Doerschuk. This rejection is respectfully traversed.

The proposed combination of Newman and Doerschuk fails to disclose or make obvious an article of swimwear with a swimsuit body **configured to be stretched over a swimmer's body so as to provide a conforming fit on a swimmer's body**, as required by independent claims 1 and 21.

As discussed above, Doerschuk discloses a diving suit with a somewhat loosely fitting body covering. Newman fails to overcome this deficiency of Doerschuk discussed above.

Newman discloses recreational swimsuits, which, as seen in Figs. 1 and 2, are loose fitting; they are simply not configured to be stretched over a swimmer's body so as to provide a conforming fit on a swimmer's body. In fact, the teachings of Newman are designed to be used with loose fitting swimwear. One objective of Newman is to provide a solution to the problems of a) sand collecting around the crotch area of the swimwear (see col. 1, lines 23-26). Such a

USSN 10/797,589
Response to November 24, 2009 Office Action

problem is not evident with swimwear that is configured to be stretched over a swimmer's body so as to provide a conforming fit on a swimmer's body. Additionally, Newman is designed to restrict waste products of incontinent individuals to the confines of the bathing suit, which cannot be accomplished with swimwear that is configured to be stretched over a swimmer's body so as to provide a conforming fit on a swimmer's body.

Accordingly, the rejection is improper and should be withdrawn.

Conclusion

It is respectfully submitted that the pending claims are in form for allowance. Please apply any charges or credits to Deposit Account No. 19-0733.

Respectfully submitted,

Dated: January 14, 2010

By: /Gregory J. Cohan/
Gregory J. Cohan, Reg. No. 40,959
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
(617) 720-9600